

AMENDED IN SENATE JUNE 4, 1998
AMENDED IN ASSEMBLY MAY 14, 1998
AMENDED IN ASSEMBLY APRIL 23, 1998
AMENDED IN ASSEMBLY APRIL 13, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2164

Introduced by Assembly Member Wayne

February 19, 1998

An act to add Article 16 (commencing with Section 11475) to Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, and to amend Section 123.6 of the Labor Code, relating to administrative law.

LEGISLATIVE COUNSEL'S DIGEST

AB 2164, as amended, Wayne. Administrative law judges: ethics.

(1) Under existing law, various requirements and prohibitions relating to conflicts of interest and ethics in government apply to designated state employees. Existing law also subjects state employees who are members of the State Bar to the Rules of Professional Conduct. Under the California Constitution, the Supreme Court is required to make rules for the conduct of judges of courts of record, referred to as the Code of Judicial Ethics.

This bill would specify that the Code of Judicial Ethics governs the conduct of an administrative law judge or other

presiding officer, with the exception of certain specified sections of that code, and would refer to these rules as the “Administrative Adjudication Code of Ethics.” The bill would provide that a violation of these rules or certain other provisions that otherwise govern the acceptance of honoraria, gifts, or travel by elected state officers shall subject the violator to disciplinary action under the State Civil Service Act.

(2) Under existing law, all workers’ compensation referees and settlement conference referees are required to subscribe to the California Code of Judicial Conduct *adopted by the Conference of California Judges*.

This bill would provide that all workers’ compensation referees are subject to the ~~Administrative Adjudication Code of Ethics~~ *Code of Judicial Ethics adopted by the California Supreme Court*.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 16 (commencing with Section
2 11475) is added to Chapter 4.5 of Part 1 of Division 3 of
3 Title 2 of the Government Code, to read:

4
5 Article 16. Administrative Adjudication Code of
6 Ethics
7

8 11475. ~~(a)~~—The rules imposed by this article may be
9 referred to as the Administrative Adjudication Code of
10 Ethics.

11 ~~(b)~~—

12 11475.10. (a) This article applies to the following
13 persons:

14 (1) An administrative law judge. As used in this
15 subdivision, “administrative law judge” means an
16 incumbent of that position, as defined by the State
17 Personnel Board, for each class specification for
18 Administrative Law Judge.

1 (2) A presiding officer to which this article is made
2 applicable by statute or regulation.

3 ~~(e)~~

4 (b) This article shall apply notwithstanding any
5 general statutory provision that this chapter does not
6 apply to some or all of a state agency's adjudicative
7 proceedings.

8 ~~11475.10.—~~

9 11475.20. Except as otherwise provided in this article,
10 the Code of Judicial Ethics adopted by the Supreme
11 Court pursuant to subdivision (m) of Section 18 of Article
12 VI of the California Constitution for the conduct of judges
13 governs the hearing and nonhearing conduct of an
14 administrative law judge or other presiding officer to
15 which this article applies.

16 ~~11475.20.—~~

17 11475.30. For the purpose of this article, the following
18 terms used in the Code of Judicial Ethics have the
19 meanings provided in this section:

20 (a) "Appeal" means administrative review.

21 (b) "Court" means the agency conducting an
22 adjudicative proceeding.

23 (c) "Judge" means administrative law judge or other
24 presiding officer to which this article applies. Related
25 terms, including "judicial," "judiciary," and "justice,"
26 mean comparable concepts in administrative
27 adjudication.

28 (d) "Law" includes regulation and precedent
29 decision.

30 ~~11475.30.—~~

31 11475.40. The following provisions of the Code of
32 Judicial Ethics do not apply under this article:

33 (a) Canon 3B(7), to the extent it relates to ex parte
34 communications.

35 (b) Canon 3B(10).

36 (c) Canon 3D(3).

37 (d) Canon 4C.

38 (e) Canons 4E(1), 4F, and 4G.

39 (f) Canons 5A–5D. However, the introductory
40 paragraph of Canon 5 applies to persons subject to this

1 article notwithstanding Chapter 9.5 (commencing with
2 Section 3201) of Division 4 of Title 1, relating to political
3 activities of public employees.

4 (g) Canon 6.

5 ~~11475.40.—~~

6 *11475.50.* A violation of an applicable provision of the
7 Code of Judicial Ethics, or a violation of the restrictions
8 and prohibitions on accepting honoraria, gifts, or travel
9 that otherwise apply to elected state officers pursuant to
10 Chapter 9.5 (commencing with Section 89500) of Title 9,
11 by an administrative law judge or other presiding officer
12 to which this article applies is cause for discipline by the
13 employing agency pursuant to Section 19572.

14 ~~11475.50.—~~

15 *11475.60.* (a) Except as provided in subdivision (b),
16 a person to whom this article applies shall comply
17 immediately with all applicable provisions of the Code of
18 Judicial Ethics.

19 (b) A person to whom this article applies shall comply
20 with Canon 4D(2) of the Code of Judicial Ethics as soon
21 as reasonably possible and shall do so in any event within
22 a period of one year after the article becomes applicable.

23 ~~11475.60.—~~

24 *11475.70.* Nothing in this article shall be construed or
25 is intended to limit or affect the rights of an
26 administrative law judge or other presiding officer under
27 Chapter 10.3 (commencing with Section 3512) of
28 Division 4 of Title 1.

29 SEC. 2. Section 123.6 of the Labor Code is amended
30 to read:

31 123.6. (a) All workers' compensation referees
32 employed by the administrative director shall subscribe
33 ~~to the Administrative Adjudication Code of Ethics~~
34 ~~specified in Article 16 (commencing with Section 11475)~~
35 ~~of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the~~
36 ~~Government Code to the Code of Judicial Ethics adopted~~
37 ~~by the Supreme Court pursuant to subdivision (m) of~~
38 ~~Section 18 of Article VI of the California Constitution for~~
39 ~~the conduct of judges~~ and shall not otherwise, directly or
40 indirectly, engage in conduct contrary to that code.

1 The administrative director shall adopt regulations to
2 enforce this section. To the extent possible, the rules shall
3 be consistent with the procedures established by the
4 Commission on Judicial Performance for regulating the
5 activities of state judges, and, to the extent possible, with
6 the gift, honoraria, and travel restrictions on legislators
7 contained in the Political Reform Act of 1974 (Title 9
8 (commencing with Section 81000) of the Government
9 Code).

10 (b) Honoraria or travel allowed by the administrative
11 director or otherwise not prohibited by this section in
12 connection with any public or private conference,
13 convention, meeting, social event, or like gathering, the
14 cost of which is significantly paid for by attorneys who
15 practice before the board, may not be accepted unless the
16 administrative director has provided prior approval in
17 writing to the workers' compensation referee allowing
18 him or her to accept those payments.

